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July 24, 2013

Marlene H. Dortch Secretary Federal Communications Commission 445 Twelfth Street, SW Washington, DC 20554

Re: Reply Comments to July 23, 2013 Public Interest Spectrum Coalition Oral Ex Parte Comments

Dear Ms. Dortch:

The LPTV Spectrum Rights Coalition has recently been organized to defend the legal rights of all 6400+ LPTV and TV Translators during the pre-auction, auction, and channel repack process. In less than two months we have been joined by over 550 FCC licensees in 31 States which cover more than 50 million viewers with over 150 local and diverse local channels of content.

In Oral ex parte Comments on July 23, 2013 that were submitted by the New America Foundation on behalf of the Public Interest Spectrum Coalition (PISC), they propose a drastic new interpretation of existing FCC rules governing the licensing and operation of the LPTV service. The PISC proposal reads as follows:

The PISC representatives further recommended that the Commission adopt a policy of vigorously enforcing its rules to ensure that LPTV, translator and booster stations that are not entitled to interference protection also do not have protected status in the TV Bands Database. While many LPTV stations serve the public interest and enhance diversity, too many are not operating or occupying far more spectrum than needed for a single digital stream of content. We noted that PISC, in its comments, recommended that the Commission consider requiring secondary broadcast licensees to co-locate and share a single 6 MHz

channel where feasible without reducing their free over-the-air broadcast service to the community.

First, PISC has no standing to recommend that the FCC change its
Congressional mandated rules governing the LPTV service. Congress granted LPTV its
service status with specific rules to insure localism, diversity, and innovation in the TV
band. LPTV has fulfilled this mandate, and collectively over the decades has invested
many billions of dollars, serves over 100 million Americans who use antenna TV with
free content, and plays a vital role in the nation's emergency public communications
chain. What PISC is advocating is a wholesale change to what Congress has
authorized in law. In the Spectrum Act in 2012 Congress specifically said that; "Nothing
in this subsection shall be construed to alter the spectrum usage rights of low power
television stations."

Second, what PISC does not disclose or seem to understand, is that the LPTV service is still in its Congressional mandated conversion from analog to digital operations and is not required to complete that until Q3-2015. As much as 40% of LPTV stations have yet to convert to full digital operations, and there are many stations operating a digital companion channel to their analog operations. In addition, there is absolutely no Congressional or FCC mandate for any type of "spectrum efficiency" by LPTV licensees. They are free to program as much or as little of their 6-MHz license spectrum as they want. Many LPTV operators have indeed implemented as many as four, six, and in some cases eight digital sub-channels, at varying bit-rates, and some are testing even higher density configurations. This is all part of the LPTV mandate, to innovate within the TV band.

Third, PISC needs to understand a basic fact of the LPTV service, its licensees are granted a full 6-MHz to air whatever programming they want and deem needed for their own business objectives. There is absolutely no FCC rule that requires LPTV stations to air any type of programming, and to suggest that the FCC has any type of authority at to mandate the content that LPTV stations air, whether local, national, foreign-language, faith-based, or otherwise.

Fourth, and most importantly, LPTV has secondary spectrum priority and interference to other TV stations only, and not to any unlicensed use of the spectrum. This means that any and all unlicensed uses of the spectrum have to not interfere with it, not the other way around. If PISC thinks just because their Silicon Valley backers have political clout and a monetary advantage, and think that they can just change the law and rules, they are mistaken. No unlicensed device may cause interference in the TV band and otherwise to LPTV.

Fifth, in the Spectrum Act, LPTV has to pay for its own channel repacking, which will cost on average over \$150,000 per licensee. And this is within a five-year window of having to pay for their own analog to digital conversion. What PISC wants to do is to do a "taking" from LPTV so that their Silicon Valley backers do not have to bid on spectrum that would help with the other goals of the auction, that is, funding First-Net, and reducing the deficit. What PISC is advocating in its attempted illegal rule-changing for LPTV, is nothing less than a direct attack on 100 million Americans who currently receive daily many terabytes of free content.

In closing, it is illegal for the FCC to implement what PISC has suggested, and if attempted, will slow the Spectrum Auction implementation by many months or years because of the lawsuits which will be initiated to protect the rights of the LPTV, translator, and TV booster services.

Respectfully submitted,

Mike Gravino
Director, LPTV Spectrum Rights Coalition